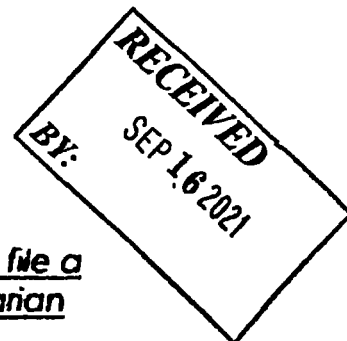


ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD
1740 W. ADAMS ST., SUITE 4600, PHOENIX, ARIZONA 85007
PHONE (602) 364-1PET (1738) FAX (602) 364-1039
VETBOARD.AZ.GOV



COMPLAINT INVESTIGATION FORM

If there is an issue with more than one veterinarian please file a separate Complaint Investigation Form for each veterinarian

PLEASE PRINT OR TYPE

FOR OFFICE USE ONLY

Date Received: Sept 16, 2021

Case Number: 22 - 25

A. THIS COMPLAINT IS FILED AGAINST THE FOLLOWING:

Name of Veterinarian/CVT: John McWhirter

Premise Name: Casa Grande Animal Hospital

Premise Address: 1645 N Pinal Ave.

City: Casa Grande State: AZ Zip Code: 85122

Telephone: (520) 836-5979

B. INFORMATION REGARDING THE INDIVIDUAL FILING COMPLAINT*:

Name: Taylor Haskin

Address: [REDACTED]

City: [REDACTED] State: [REDACTED] Zip Code: [REDACTED]

Home Telephone: [REDACTED] Cell Telephone: [REDACTED]

*STATE LAW REQUIRES WE HAVE TO DISCLOSE YOUR NAME UNLESS WE CAN SHOW THAT DISCLOSURE WILL RESULT IN SUBSTANTIAL HARM TO YOU, SOMEONE ELSE OR THE PUBLIC PER A.R.S. § 41-1010. IF YOU HAVE REASON TO BELIEVE THAT SUBSTANTIAL HARM WILL RESULT IN DISCLOSURE OF YOUR NAME PLEASE PROVIDE COPIES OF RESTRAINING ORDERS OR OTHER DOCUMENTATION.

C. PATIENT INFORMATION (1):

Name: Sadie
Breed/Species: Lab & Pitbull Mix/Dog
Age: 12-13 yrs Sex: Female Color: Black Brindle

PATIENT INFORMATION (2):

Name: _____
Breed/Species: _____
Age: _____ Sex: _____ Color: _____

D. VETERINARIANS WHO HAVE PROVIDED CARE TO THIS PET FOR THIS ISSUE:

Please provide the name, address and phone number for each veterinarian.

Juli Maher, John McWhirter, & Lorinda Fallini - 1645 N Pinal Ave. Casa Grande,
AZ, 85122, 520-836-5979

Jill Starks, Payton Bayless, Viktoria Pugnetti, Dana Caldwell, & Samuel Hollister -
86 W. Juniper Ave. Gilbert, AZ 85233, 480-497-0222

E. WITNESS INFORMATION:

Please provide the name, address and phone number of each witness that has direct knowledge regarding this case.

Carla Virgin _____

Attestation of Person Requesting Investigation

By signing this form, I declare that the information contained herein is true and accurate to the best of my knowledge. Further, I authorize the release of any and all medical records or information necessary to complete the investigation of this case.

Signature: Taylor HBS

Date: 9/14/21

F. ALLEGATIONS and/or CONCERNS:

Please provide all information that you feel is relevant to the complaint. This portion must be either typewritten or clearly printed in ink.

Details of my concerns are attached on the following pages.

On September 1st, 2021, my mother, Carla Virgin, took Sadie to Casa Grande Animal Hospital for an exam due to increased thirst, lethargy, vomiting, snoring/slight trouble breathing, and decreased appetite. She also requested the examining Veterinarian to look at her right eye due to slight irritation, a small growth on her left nostril, and weakness in right knee/hip. Dr. McWhirter concluded that the growth on her nostril was benign scarring from an old abscess, weakness in knee/hip did not seem to be causing her pain and was most likely an old injury, could not find any issues with her respiration, and that eye irritation was most likely due to allergies. Sadie was given Depo Medrol and blood work was ordered by Dr. McWhirter.

On September 3rd, 2021, the blood work results were received by Casa Grande Animal Hospital.

On September 4th, 2021, Dr. Maher reviewed blood work and called my mother, Carla Virgin, with results. Dr. Maher stated that Sadie's white blood cell count was very high and was due to either a serious infection or cancer, but that she felt it was most likely cancer, and that she was very sorry, and she never likes to deliver that kind of news to owners. Dr. Maher offered to start Sadie on antibiotics in case of infection, we agreed, and picked up her medication. From September 5th to September 6th, Sadie worsened even with administration of antibiotics. She was experiencing vomiting, increased thirst, increased urination, decreased appetite, snoring/trouble breathing, and lethargy.

On September 7th, due to Dr. Maher's belief that the underlying issue was cancer, my mother inquired about how to go about getting her in to see a Veterinary Oncologist, and we were instructed to call and make an appointment and they would send Sadie's records to them. When I called Arizona Veterinary Oncologist they stated that we needed a diagnosis including type and staging prior to making an appointment and were referred back to Casa Grande Animal Hospital to seek a definitive diagnosis. We then called Casa Grande Animal Hospital to request a prescription for fluids and anti nausea medication, and inquire about getting a definitive cancer diagnosis including type and staging. Casa Grande Animal Hospital informed us that Dr. Maher was not in, but that they would ask Dr. McWhirter to review Sadie's records to sign off on a prescription and give further instruction on seeking a definitive cancer diagnosis and staging. Dr. McWhirter signed off on prescription for IV fluids and anti nausea medication, and left a voicemail message stating that after reviewing Dr. Maher's notes, it appeared that she was suggesting that Sadie have an ultrasound done. This was very concerning since the suggestion of having an ultrasound done was not mentioned by Dr. Maher in her previous call with results, so we called Casa Grande Animal Hospital back and asked to schedule an ultrasound for the following day. The person who answered the phone stated that they would not be able to get Sadie in for an ultrasound until Monday, September 13th. We stated that this was unacceptable and she needed to be seen as soon as possible tomorrow morning because her condition is worsening. I was instructed to bring her in the next morning, September 8th, at 9:30 am and an ultrasound would be performed as soon as a Vet was available.

On September 8th, we dropped Sadie off at Casa Grande Animal Hospital promptly at 9:30 am for her ultrasound. We received a call from Dr. Fallini around noon stating the

ultrasound showed that Sadie was experiencing pyometra, a severe infection of her uterus, and would need emergency surgery to remove the infection. I agreed to have her proceed with surgery. We received no follow up regarding Sadie's condition from Dr. Fallini, or any other Vet or tech at Casa Grande Animal Hospital until my mother called them at 5:30 pm. After being placed on hold multiple times, my mother was told that Dr. Fallini was unavailable at the moment and that she would call her back with an update within the hour. Dr. Fallini called back and stated that Sadie's surgery went well but that she was not recovering as quickly as she would like to see and that her glucose levels were high. She stated that she would need to be transferred to Arizona Veterinary Emergency & Critical Care Center in Gilbert for overnight observation and continuation of fluids, antibiotics, pain medication, and insulin, since Casa Grande Animal Hospital is not staffed overnight. We took Sadie to Arizona Veterinary Emergency & Critical Care Center for further care immediately that night. After Dr. Bayless' initial exam, she advised that she was most likely experiencing sepsis due to the length of time she had the pyometra and that she would keep Sadie overnight for post-op care, pain meds, antibiotics, and blood glucose monitoring.

During Sadie's overnight stay, she developed anisocoria and two small ulcers were noted in her right eye. After some research, I assume that these corneal ulcers were most likely caused by the development of Sadie's diabetic condition. Her diabetic condition which was caused by the serious pyometra that was negligently overlooked and misdiagnosed by both Dr. Maher and Dr. McWhirter. Due to this misdiagnosis, we were led in the wrong direction to seek out care for Sadie, and she was denied the urgent care she needed. Sadie ultimately could have died due to misdiagnosis and negligence at the hands of Dr. Maher and Dr. McWhirter. She will now live with diabetes induced by this infection for the rest of her life. My family has incurred extensive emotional distress due to this event. First, by being told that our beloved pet has cancer, and trying to come to terms with that, just to be told she needs emergency surgery and it isn't cancer at all. I have incurred extensive veterinary bills due to Dr. Maher and Dr. McWhirter's negligence totaled at approximately \$6,100, including prescriptions for Sadie's care at home upon release from the Veterinary hospital.

John McWhirter, DVM
#22-25

"Sadie" Virgin

On Wednesday, September 1, 2021 I was presented with Sadie Virgin, a 13 year old mixed breed dog weighing 52lbs as what our practice calls a "walk in" appointment. This, not being a scheduled appointment, made the owner, Carla Virgin, wait curbside and an assistant brought Sadie inside for an examination. The presenting complaints were:

To check breathing, that Sadie seemed to be snoring more than usual and her breathing seemed to require more effort. The owner thought Sadie was drinking more than usual, but could not say if she was urinating more. Ms. Virgin said Sadie was less active and her appetite was down. Ms. Virgin also reported that she had needed to clean Sadie's eyes more often than usual, especially her right eye. Also she has a small slightly elevated growth near the left nostril. Her right knee/hip seems weak but that she gave Sadie CBD oil. Sadie vomited last night and it contained some food and more liquid.

My assistant noted the above-mentioned complaints from Ms. Virgin and brought Sadie inside for an examination. Upon examination of Sadie I found the following exam findings:

General Appearance: ADR- Owner statement

- I noted Sadie to be bright, alert and responsive
- She was overweight 5-10 pounds

Integumentary:

- Small (<0.5cm) raised mass ventral and lateral to the left of nostril
- Rule outs included an old, scarred abscess, lipoma, tumor (benign vs malignant)
- Other

Muscular-skeletal:

- Anterior drawer motion detected within the right stifle

I could not detect a meniscal pop, which is often heard during flexion/extension of stifle with a torn meniscus and palpated no obvious medial buttressing. This finding seems indicative of a cranial cruciate trauma. Owner gives "CBD" oil usually for what she calls discomfort.

Circulatory: Strong steady heartbeat, minimal sinus arrhythmia and a synchronous femoral pulse; no abnormal findings

Respiratory: I could not ascertain any abnormality in the respiratory system, between mouth/pharynx and down into the lungs.

Digestive: I saw no physical abnormal findings, the abdomen had a full appearance, was not gaunt to any degree. I palpated no obvious palpable abnormalities and Sadie exhibited no pain response.

Urinary: No visual abnormalities noted. No external genital abnormalities in anatomy and no vaginal discharge. Again, I could not ascertain any intra-abdominal abnormalities

Eyes: Lenses becoming opaque

Right eye: I saw no pathological changes on the eye such as abrasion, punctures, and lacerations. Both eyes had lucid exudate. My initial thoughts were possibly allergic conjunctivitis.

Ears: I found nothing abnormal while examining either ear

Neural Systems: No deficits noted. Ambulation normal, no head tilt, pupils had normal pupillary response, no nystagmus

Lymph Nodes: No enlarged lymph nodes palpated

Mucous Membrane and Dental: no abnormalities noted

Based upon these findings, my initial plan of action included:

- Examination
- Coccidioides Profile: CBC/Chem 27/T4/Valley Fever
- Snap 4 DX: HW, Erlichia, Anaplasma, Lyme
- Possible meds and additional diagnostics based upon labwork results

Around 3pm I phoned Ms. Virgin to talk with her. I told her all of my findings, both associated with her presenting complaints and others not mentioned. I told her that the right stifle needed to be addressed at some point, but it is not involved with her active, pressing complaints. I told her the examination findings were not very illuminating but I felt something metabolic or physiological was going on. I suggested the lab work, which would more than likely point us in one direction or another. It might point to certain medications to treat/manage certain illnesses; it might indicate more diagnostic procedures such as some form of imaging. I tried to impress upon her that some disease process was beginning or already causing problems that physical examination did not yet reveal. I felt the above noted plan was a good sound first step in isolating Sadie's condition(s). Ms. Virgin declined the labwork and stated she wanted Sadie to feel better. I suggested that a subcutaneous injection of prednisolone should give Sadie exposure to approximately 2 weeks of a good anti-inflammatory agent. She agreed to the injection.

I then amended my plan accordingly:

- examination
- Depomedrol 20mg/ml 1.0ml SQ
- I told the assistant to go ahead and give Ms. Virgin an estimate for the Coccidioides Profile with a Snap 4 DX sent out to IDEXX Laboratories so she would be aware of the costs.

That was the culmination of my interactions with Sadie and Ms. Virgin. I worked 9/2/2021 and did not work again until 9/6/2021. I was not presented with preliminary laboratory reports on 9-2-2021.

Sadie's record was placed upon my desk on 9/7/2021 with a request of fluids to be administered subcutaneously at home. I reviewed record entries following my exam on 9-1-2021. I read that on 9/3/2021 Sadie was brought into CGAH for a blood draw, which was submitted for Coccidioides Profile. On 9/4/2021, Dr. Maher talked to Ms. Virgin noting an elevation of white blood cells with band cells and metamyelocytes. She noted a concern for cancer and recommended starting oral antibiotics of baytril and amoxi-clav. Dr. Maher also recommended abdominal ultrasound and Valley Fever results were pending. Ms. Virgin and her daughter called CGAH inquiring how to schedule an appointment with an

oncologist. I called the first telephone number on the request for fluids and reached Mrs. Virgin's daughter. She gave me an update in Sadie's condition, she then told me she had contacted the oncology center on her own accord after considering Dr. Maher's suggestion of a possible cancerous process. The daughter told me she was informed by AZ Veterinary Specialist Oncology Division in Gilbert, Arizona that they could not see Sadie until she was diagnosed with a cancerous process. She told me that Sadie was being admitted here to CGAH for an abdominal ultra sound procedure on 9/8/2021. I told Mrs. Virgin's daughter, I would approve the request for medications.

Dr. Fallini preformed the ultra sound and proceeded into surgery as noted in the complaint. On 9/8/2021, my schedule was dedicated to well patient visits and medical examinations. I did not receive any updates or consultation to any findings pertaining to Sadie from my associate veterinarian.

In conclusion, I feel confident that my involvement in this case with Sadie Virgin followed appropriate measures. I was presented with an afebrile patient, which exhibited varied, and upon examination mild clinic signs. In this situation with an open diagnoses, I suggested we perform a series of laboratory diagnostics so as to show what pathological processes might be causing Ms. Virgins concern for her pet Sadie.

DOUGLAS A. DUCEY
- GOVERNOR -



VICTORIA WHITMORE
- EXECUTIVE DIRECTOR -

ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD

1740 W. ADAMS STREET, STE. 4600, PHOENIX, ARIZONA 85007
PHONE (602) 364-1-PET (1738) ♦ FAX (602) 364-1039
VETBOARD.AZ.GOV

INVESTIGATIVE COMMITTEE REPORT

TO: Arizona State Veterinary Medical Examining Board

FROM: PM Investigative Committee: Adam Almaraz - Chair
Amrit Rai, DVM
Steven Dow, DVM
Gregg Maura
Justin McCormick, DVM

STAFF PRESENT: Tracy A. Riendeau, CVT – Investigations
Marc Harris, Assistant Attorney General

RE: Case: 22-25
Complainant(s): Taylor Haskin
Respondent(s): John McWhirter, DVM (License: 3090)

SUMMARY:

Complaint Received at Board Office: 9/16/21
Committee Discussion: 2/1/22
Board IIR: 3/16/22

APPLICABLE STATUTES AND RULES:

Laws as Amended August 2018
(Lime Green); Rules as Revised September
2013 (Yellow).

On September 1, 2021, "Sadie," a 12-year-old female Labrador mix was presented to Dr. McWhirter due to lethargy, increased thirst, anorexia and vomiting. The dog was examined; Dr. McWhirter recommended blood work, administered the dog Depo-Medrol and the dog was discharged.

On September 3, 2021, blood was collected for testing.

On September 4, 2021, Dr. Maher contacted the pet owner with the blood results. She reported the dog had an infection and possibly cancer. She recommended started the dog on antibiotics and having an abdominal ultrasound.

On September 8, 2021, the dog had an abdominal ultrasound performed and was diagnosed with a pyometra; surgery was performed. That evening the dog was transferred to an emergency facility for continued care and monitoring of persistent hyperglycemia.

Complainant was noticed and did not appear.
Respondent was noticed and appeared.

The Committee reviewed medical records, testimony, and other documentation as described below:

- Complainant(s) narrative: *Taylor Haskin*
- Respondent(s) narrative/medical record: *John McWhirter, DVM*
- Consulting veterinarian(s) narrative/medical record: *Arizona Veterinary Emergency & Critical Care Center*

PROPOSED 'FINDINGS of FACT':

1. On September 1, 2021, the dog was presented to Dr. McWhirter due to lethargy, increased thirst, anorexia, and vomiting. Complainant's mother, Ms. Virgin, also reported that the dog seemed to be snoring more and breathing with more effort. Additionally, the dog's eyes were weeping more than usual, the right rear leg was weak, and there was a small mass near the dog's left nostril.

2. Dr. McWhirter examined the dog and found a weight = 52.6 pounds, a temperature = 102.1 degrees, a heart rate = 120bpm, and a respiration rate = pant; BCS 6/9. The mass near the left nostril was evaluated – scar, lipoma, tumor (benign vs malignant); the right rear leg lameness was likely related to cranial cruciate ligament issue; and Dr. McWhirter could not appreciate any respiratory issues at that time. He contacted Ms. Virgin to report his findings. Although he did not find anything obvious, he suspected a metabolic or physiological issue was going on and recommended blood work. Ms. Virgin declined the blood work at that time and approved the steroid injection. The dog was administered Depo-Medrol 20mg SQ and was discharged.

3. On September 3, 2021, the dog was presented to the premises for blood collection. The dog had a weight = 53.8 pounds, a temperature = 102.1 degrees, a heart rate = 120bpm, and a respiration rate = pant.

4. Blood abnormalities were as follows:

GLUC	198	63 – 114
PHOS	6.7	2.5 – 6.1
POTA	6.2	4 – 5.4
NA:K RATIO	23	28 – 37
CHLOR	103	108 – 119
AN.GAP	30	11 – 26
T. PRO	7.8	5.5 – 7.5
ALBUM	2.4	2.7 – 3.9
GLOBULIN	5.4	2.4 – 4.0
ALB:GLOB RATIO	0.4	0.7 – 1.5
ALT	14	18 – 121
CREAT KIN	566	10 – 200
HEMO	13.2	13.4 – 20.7
MCHC	32.4	32.6 – 39.2
WBC	70.9	4.9 – 17.6
NEUTS	45.38	2.94 – 12.67
BANDS	10,635	0 – 170
METAMYELOCYTES	1.410	< = 0
MONOS	9.93	0.13 – 1.15
PLATELETS	439	143 – 448

COCCI IgG

Positive <1:2

5. On September 4, 2021, Dr. Maher called Ms. Virgin with the blood work results. She explained that results indicated a severe infection and due to the dog's age, cancer was a possibility. Dr. Maher stated that the presence of metamyelocytes in the periphery was a cell type she rarely saw. She also stated that due to the low albumin levels, there could be many issues occurring – chronic gastrointestinal disease, hepatic disease, renal disease, genitourinary disease – therefore she recommended an abdominal ultrasound to look for any abnormalities. Dr. Maher recommended starting the dog on two antibiotics:

- a. Baytril 136mg, 15 tablets; give 1.5 tablets once a day for 10 days; and
- b. Amoxi-Clav 625mg, 28 tablets; give 1 tablet twice a day for 14 days.

6. According to Complainant, Dr. Maher advised that the dog's high WBC was due to either a serious infection or cancer, but that she felt it was most likely cancer. She offered to start the dog on antibiotics, which was approved. Complainant picked up the medication and administered them to the dog.

7. Dr. Maher stated that she does not believe that she intimated that neoplasia was the only reason for the abnormal results or the dog's symptoms. She advised the pet owner that the dog was experiencing a massive bacterial infection and treatment was needed as soon as possible. Dr. Maher believes the pet owner focused on the word cancer rather than infection.

8. Complainant stated that the dog worsened over the next couple of days, despite medications the medication being administered. Due to Dr. Maher's belief the dog had cancer, Complainant called an oncologist – she was advised that she needed a definitive diagnosis and staging prior to bringing the dog to them.

9. On September 7, 2021, Complainant called Casa Grande Animal Hospital to ask for fluids, anti-nausea medication and discuss how to diagnose the possible cancer. Dr. McWhirter approved the request and stated that Dr. Maher recommended an abdominal ultrasound. Complainant stated that she was upset because Dr. Maher did not mention the ultrasound. The dog was dispensed:

- a. LRS 1 liter (3), give 400 – 500mLs SQ;
- b. IV drip set;
- c. Needles; and
- d. Cerenia 60mg, 4 tablets; 1 tablet every 24 hours.

10. On September 8, 2021, the dog was presented to Dr. McWhirter's and Dr. Maher's associate, Dr. Fallini for an abdominal ultrasound.

11. The dog was diagnosed with a pyometra, blood was tested and emergency surgery was performed.

Test	Results	Reference Interval	LOW	NORMAL	HIGH
ProCyt Dx (September 8, 2021 1:05 PM)					
RBC	4.17 M/ μ L	5.65 - 8.87	LOW		
HCT	24.9 %	37.3 - 61.7	LOW		
HGB	9.3 g/dL	13.1 - 20.5	LOW		
MCV	59.7 fL	81.6 - 73.5	LOW		
MCH	22.3 pg	21.2 - 25.9			
MCHC	37.3 g/dL	32.0 - 37.9			
RDW	17.3 %	13.6 - 21.7			
%RETIC	1.6 %				
RETIC	88.4 K/ μ L	10.0 - 110.0			
RETIC-HGB	26.0 pg	22.3 - 29.6			
WBC	70.15 K/ μ L	5.05 - 16.76	HIGH		
%NEU	* 65.6 %				
%LYM	* 13.8 %				
%MONO	* 19.6 %				
%EOS	1.0 %				
%BASO	0.0 %				
NEU	* 46.01 K/ μ L	2.95 - 11.64	HIGH		
BAND	* Suspected				
LYM	* 9.69 K/ μ L	1.05 - 5.10	HIGH		
MONO	* 13.74 K/ μ L	0.16 - 1.12	HIGH		
EOS	0.71 K/ μ L	0.06 - 1.23			
BASO	0.00 K/ μ L	0.00 - 0.10			
PLT	393 K/ μ L	148 - 484			
MPV	12.9 fL	8.7 - 13.2			
PDW	15.3 fL	9.1 - 19.4			
PCT	0.51 %	0.14 - 0.46	HIGH		

* Confirm with dot plot and/or blood film review.

1. Anemia without reticulocytosis - Likely non-regenerative anemia; consider pre-regenerative anemia.

1. Immature and/or toxic neutrophils likely present - Consider it

Catalyst Dx (September 8, 2021 1:13 PM)

GLU	578 mg/dL	70 - 143	HIGH				
CREA	2.7 mg/dL	0.5 - 1.8	HIGH				
BUN	80 mg/dL	7 - 27	HIGH				
BUN/CREA	30						
TP	6.2 g/dL	5.2 - 8.2					
ALB	2.3 g/dL	2.2 - 3.9					
GLOB	3.9 g/dL	2.5 - 4.5					
ALB/GLOB	0.6						
ALT	44 U/L	10 - 125					
ALKP	229 U/L	23 - 212	HIGH				

12. Due to the dog's worsening condition and persistent hyperglycemia, it was recommended the dog be transferred to an emergency facility. Complainant agreed and transferred the dog.

13. Later that evening, the dog was presented to Arizona Veterinary Emergency & Critical Care Center (AVECCC) for hospitalization and supportive care. The dog remained hospitalized until September 10, 2021. The dog was diagnosed with diabetic ketosis, azotemia, corneal ulcers and was likely septic due to the length of time the dog had the closed pyometra.

14. Complainant contends that the dog's condition was overlooked and misdiagnosed by Dr. McWhirter and Dr. Maher.

COMMITTEE DISCUSSION:

The Committee discussed pyometras and that closed pyometras are more dangerous than open pyometras. Once the patient begins vomiting and has an elevated WBC, it becomes an emergency and surgery is needed.

After the preliminary blood work was received on 9/4/21, the dog should have been brought back for additional diagnostics.

The Committee discussed the depo-medrol injection could have exacerbated the dog's subsequent diagnosed diabetes. They were concerned that a long acting steroid was administered to the dog before having a diagnosis.

The Committee discussed that the hospital does not have protocols in place for sick animals getting follow up. There were concerns with the passing of the case and no clear doctor in charge of the case, which led to an unnecessary time lapse in the treatment of the dog. There was a lack communication between doctors and to the pet owner on the seriousness of the dog's condition.

There was concern with the treatment of the dog's eye. It was not known if Dr. McWhirter missed something by not staining the eye or performing a tear test.

Based on the conversation with Dr. Maher, Complainant may have heard the word cancer and only focused on that possible diagnosis. However, the Committee felt that it was the veterinarians' obligation to make recommendations and follow up with the dog's care. In this case, the pet suffered based on the mishandling of the case. Dr. Maher did not realize the dog was an intact female. Complainant was the one who followed up on the dog and initiated the ultrasound to pursue the dog's declining condition.

The Committee expressed concern with the premises itself and how case management was handled internally; neither of the veterinarians that the complaint was filed against is the responsible veterinarian for the premises.

COMMITTEE'S PROPOSED CONCLUSIONS of LAW:

The Committee concluded that possible violations of the Veterinary Practice Act occurred.

COMMITTEE'S RECOMMENDED DISPOSITION:

Motion: It was moved and seconded the Board find:

ARS § 32-2232 (12) as it relates to **AAC R3-11-501 (1)** for failure to communicate to the pet owner on September 7, 2021 the seriousness of the dog's blood results and not recommending the dog be brought back in for re-evaluation.

Vote: The motion was approved with a vote of 4 to 1, with Dr. McCormick opposed.

The information contained in this report was obtained from the case file, which includes the complaint, the respondent's response, any consulting veterinarian or witness input, and any other sources used to gather information for the investigation.

TR

Tracy A. Riendeau, CVT
Investigative Division

1 **BEFORE THE ARIZONA STATE VETERINARY MEDICAL**
2 **EXAMINING BOARD**

3 IN THE MATTER OF:) **CASE No.: 22-25**
4 **JOHN MCWHIRTER, DVM**)
5 **HOLDER OF LICENSE No. 3090**) **FINDINGS OF FACT,**
6 **FOR THE PRACTICE OF VETERINARY**) **CONCLUSIONS OF LAW**
7 **MEDICINE IN THE STATE OF ARIZONA,**) **AND ORDER**
8 **RESPONDENT.**)

9 The Arizona State Veterinary Medical Examining Board ("Board")
10 considered this matter at its public meeting on May 18, 2022. John McWhirter,
11 DVM ("Respondent") appeared on his own behalf for an Informal Interview that
12 was held pursuant to the authority vested in the Board by A.R.S. § 32-2234(A).
13 After due consideration of the evidence, the arguments and the applicable
14 law, the Board voted to issue the following Findings of Fact, Conclusions of Law
15 and Order ("Order").

16 **FINDINGS OF FACT**

17 1. Respondent is the holder of License No. 3090 and is therefore authorized
18 to practice the profession of veterinary medicine in the State of Arizona.

19 2. On September 1, 2021, "Sadie," a 12-year-old female Labrador mix
20 ("Patient") was presented to Respondent due to lethargy, increased thirst,
21 anorexia, and vomiting. Complainant's mother also reported that the Patient
22 seemed to be snoring more and breathing with more effort. Additionally, the
23 Patient's eyes were weeping more than usual, the right rear leg was weak, and
24 there was a small mass near the Patient's left nostril.

1 3. Respondent examined the Patient and found a weight = 52.6 pounds, a
2 temperature = 102.1 degrees, a heart rate = 120bpm, and a respiration rate =
3 pant; BCS 6/9. The mass near the left nostril was evaluated – scar, lipoma, tumor
4 (benign vs malignant); the right rear leg lameness was likely related to cranial
5 cruciate ligament issue; and Respondent could not appreciate any respiratory
6 issues at that time. He contacted the Complainant's mother to report his
7 findings. Although he did not find anything obvious, he suspected a metabolic
8 or physiological issue was going on and recommended blood work. The
9 Complainant's mother declined the blood work, but approved the steroid
10 injection. The Patient was administered Depo-Medrol 20mg SQ and was
11 discharged.

12 4. On September 3, 2021, the Patient was presented to the premises for
13 blood collection. The Patient had a weight = 53.8 pounds, a temperature =
14 102.1 degrees, a heart rate = 120bpm, and a respiration rate = pant.

15 5. On September 4, 2021, Respondent's colleague, called the
16 Complainant's mother with the blood work results. She explained the results
17 indicated a severe infection and due to the Patient's age, cancer was a
18 possibility. She stated that the presence of metamyelocytes in the periphery
19 was a cell type she rarely saw. She also stated that due to the low albumin
20 levels, there could be many issues occurring – chronic gastrointestinal disease,
21 hepatic disease, renal disease, genitourinary disease – therefore she
22 recommended an abdominal ultrasound to look for any abnormalities. She
23 recommended starting the Patient on two antibiotics:

- 24 a. Baytril 136mg, 15 tablets; give 1.5 tablets once a day for 10 days; and
- 25 b. Amoxi-Clav 625mg, 28 tablets; give 1 tablet twice a day for 14 days.

1 6. According to Complainant, Respondent's colleague advised that the
2 Patient's high WBC was due to either a serious infection or cancer, but that she
3 felt it was most likely cancer. She offered to start the Patient on antibiotics,
4 which was approved. Complainant picked up the medication and
5 administered them to the Patient.

6 7. Complainant stated that the Patient worsened over the next couple of
7 days, despite the medication being administered. Due to the belief that the
8 Patient had cancer, Complainant called an oncologist – she was advised that
9 she needed a definitive diagnosis and staging prior to bringing the Patient to
10 them.

11 8. On September 7, 2021, Complainant called Casa Grande Animal Hospital
12 to ask for fluids, anti-nausea medication, and discuss how to diagnose the
13 possible cancer. Respondent approved the request and stated that his
14 colleague recommended an abdominal ultrasound. Complainant stated that
15 she was upset because Respondent's colleague had not mentioned the
16 ultrasound. Respondent did not use this opportunity to relay the seriousness of
17 the blood results to Complainant and immediately suggest that the Patient be
18 brought in for re-evaluation. The Patient was dispensed:

- 19 a. LRS 1 liter (3), give 400 – 500mLs SQ;
- 20 b. IV drip set;
- 21 c. Needles; and
- 22 d. Cerenia 60mg, 4 tablets; 1 tablet every 24 hours.

23 9. On September 8, 2021, the Patient was presented to another colleague of
24 Respondent's for an abdominal ultrasound.

1 10. The Patient was diagnosed with a pyometra, blood was tested, and
2 emergency surgery was performed.

3 11. Due to the Patient's worsening condition and persistent hyperglycemia, it
4 was recommended that the Patient be transferred to an emergency facility.
5 Complainant agreed to transfer the Patient.

6 12. Later that evening, the Patient was presented to Arizona Veterinary
7 Emergency & Critical Care Center for hospitalization and supportive care. The
8 Patient remained hospitalized until September 10, 2021. The Patient was
9 diagnosed with diabetic ketosis, azotemia, corneal ulcers and was likely septic
10 due to the length of time the Patient had the closed pyometra.

11 13. After due consideration of the matter, the Board concluded that
12 Respondent deviated from the standard of care by administering to the Patient
13 a long-acting steroid without having a diagnosis or at least a tentative
14 diagnosis. The Board also found that Respondent deviated from the standard
15 of care when he failed to tell the Complainant that, based upon the blood
16 results, the Patient needed to be immediately re-evaluated.

17 **CONCLUSIONS OF LAW**

18 14. The conduct and circumstances described in the Findings of Fact above,
19 constitutes a violation of **A.R.S. § 32-2232 (12)** as it relates to **A.A.C. R3-11-501**
20 **(1)** for failure to communicate to the pet owner on September 7, 2021 the
21 seriousness of the Patient's blood results and not recommending the Patient be
22 brought back in for re-evaluation.

1 15. The conduct and circumstances described in the Findings of Fact above,
2 constitutes a violation of A.R.S. § 32-2232 (11) Gross negligence¹; for
3 administering a long-acting steroid to a Patient exhibiting symptoms of illness
4 without a diagnosis or tentative diagnosis which caused unnecessary suffering.

5
6 **ORDER**

7 Based upon the foregoing Findings of Fact and Conclusions of Law it is
8 **ORDERED** that Respondent's License, No. 3090 be placed on **PROBATION** for a
9 period of one (1) year, subject to the following terms and conditions that shall
10 be completed within the Probationary period. These requirements include
11 twelve (12) total hours of continuing education (CE) and a civil penalty
12 detailed below:

13 1. **IT IS ORDERED THAT:** Respondent shall provide written proof satisfactory to
14 the Board that he has completed six (6) hours of continuing education (CE);
15 hours earned in compliance with this order shall not be used for licensure
16 renewal. Respondent shall satisfy these six (6) hours by attending CE in the area
17 of reproductive diseases. Respondent shall submit written verification of
18 attendance to the Board for approval.

19 2. **IT IS ORDERED THAT:** Respondent shall provide written proof satisfactory to
20 the Board that he has completed three (3) hours of continuing education (CE);
21 hours earned in compliance with this order shall not be used for licensure

22 _____
23 ¹ A.R.S. § 32-2201 (9) defines "gross negligence" as the treatment of a patient or
24 practice of veterinary medicine resulting in injury, unnecessary suffering or death
25 that was caused by the carelessness, negligence or the disregard of established
principles or practices.

1 renewal. Respondent shall satisfy these three (3) hours by attending CE in the
2 area of pharmacology. Respondent shall submit written verification of
3 attendance to the Board for approval.

4 **3. IT IS ORDERED THAT** Respondent shall provide written proof satisfactory to
5 the Board that he has completed three (3) hours of continuing education (CE);
6 hours earned in compliance with this order shall not be used for licensure
7 renewal. Respondent shall satisfy these three (3) hours by attending CE in the
8 area of client communication. Respondent shall submit written verification of
9 attendance to the Board for approval.

10 **4. IT IS FURTHER ORDERED THAT** Respondent shall pay a civil penalty of one
11 thousand five hundred dollars (\$1500) on or before the end of the Probation
12 period. This total amount is comprised of \$1000 for the gross negligence
13 violation and \$500 for the client communication violation. The civil penalty shall
14 be made payable to the Arizona State Veterinary Medical Examining Board
15 and is to be paid by cashier's check or money order.

16 **5. All continuing education to be completed for this Order shall be**
17 **pre-approved by the Board.** Respondent shall submit to the Board a written
18 outline regarding how he plans to satisfy the requirements in paragraph 1, 2,
19 and 3 for its approval within sixty (60) days of the effective date of this Order.
20 The outline shall include **CE course details** including, **name, provider, date(s),**
21 **hours of CE** to be earned, and a **brief course summary**.

22 **6.** Respondent shall obey all federal, state and local laws/rules governing
23 the practice of veterinary medicine in this state.

24 **7.** Respondent shall bear all costs of complying with this Order.
25

1 8. This Order is conclusive evidence of the matters described and may be
2 considered by the Board in determining an appropriate sanction in the event a
3 subsequent violation occurs. In the event Respondent violates any term of this
4 Order, the Board may, after opportunity for Informal Interview or Formal
5 Hearing, take any other appropriate disciplinary action authorized by law,
6 including suspension or revocation of Respondent's license.

7
8 **NOTICE OF APPEAL RIGHTS**

9 Respondent is hereby notified that he has the right to request a rehearing
10 or review of the Order by filing a motion with the Board's Executive Director
11 within 30 days after service of this Order. Service of the Order is effective five
12 days after the date of mailing to Respondent. See A.R.S. § 41-1092.09. The
13 motion must set forth legally sufficient reasons for granting a rehearing or
14 review. A.A.C. R3-11-904. If a motion for rehearing or review is not filed, the
15 Board's Order becomes final 35 days after it is mailed to Respondent.
16 Respondent is further notified that failure to file a motion for rehearing or review
17 has the effect of prohibiting judicial review of the Order, according to A.R.S. §
18 41-1092.09(B) and A.R.S. § 12-904, et seq.

19 Dated this 27th day of June, 2022.

20 Arizona State Veterinary Medical Examining Board
21 Jim Loughhead
22 Chairman

23 By: 
24 Victoria Whitmore, Executive Director

25 Original of the foregoing filed this 27th day of June, 2022
with the:

1 Arizona State Veterinary
2 Medical Examining Board
3 1740 W. Adams St., Ste. 4600
4 Phoenix, Arizona 85007

5 Copy of the foregoing sent by certified, return receipt mail
6 this 27th day of June, 2022 to:

7 John McWhirter, DVM
8 Address on file
9 Respondent
10

11 By: V. Whitman

12 Board Staff
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